

**CITY OF GOODYEAR
CITY COUNCIL ACTION FORM**

SUBJECT: City Council adoption of Ordinance No. 04- 905 approving a text amendment to the Table of Contents, Article 2, Definitions, Article 3, Commercial Districts, and Article 4, Special Uses, Uses Requiring Additional Evaluation, Nonconforming Uses and Buildings, of the City of Goodyear Zoning Ordinance, as amended, to establish a definition, use criteria, and development standards for Large Retail Users (ZT-01-04).

STAFF PRESENTER: Steve Careccia, Planner II

RECOMMENDATION:

City Council adopt Ordinance No. 04- 905 approving a text amendment to the Table of Contents, Article 2, (Definitions), Article 3 (Commercial Districts), and Article 4 (Special Uses, Uses Requiring Additional Evaluation, Nonconforming Uses and Buildings) of the City of Goodyear Zoning Ordinance, as amended, to establish a definition, use criteria, and development standards for Large Retail Users.

COMMUNITY BENEFIT:

- Minimize the potential adverse impacts of Large Retail Users.
- Allow the City expanded review authority and ability to impose stipulations on design, use, and operation of Large Retail Users.
- Provide greater opportunities for public involvement in the consideration of Large Retail Users.

DISCUSSION:

Background – Large retail stores have caused much discussion in cities across the Valley. This discussion has oftentimes centered on the large retailers' real or perceived impacts on neighborhoods. Concerns are usually voiced over traffic congestion, crime, light trespass, pollution, and noise to the sometimes featureless architecture of the 'big box'. Other discussion has revolved around economics. Large retailers provide sales tax revenues for cities, create jobs, and offer goods and services desired by the community at large.

As concerns over the large retailers have grown, many cities across the nation and Valley have adopted regulations specifically addressing these stores. The City of Goodyear is no exception. At the direction of Council, staff has researched the merits of a text amendment to the Zoning Ordinance that would address the development of large retail stores. Based upon recent Commission and Council discussion and review of the Wal-Mart Supercenter, it was determined that additional requirements were now needed for future large retailers.

During the amendment process, research was conducted on how other Valley cities regulated large retailers. Cities such as Chandler, Glendale, and Scottsdale provided a basis for staff to

review various regulations. The amendment was also circulated to Valley Partnership, a membership organization of developers and real estate professionals, for their review and comment (Exhibit A).

Purpose and Details – The purpose of the amendment is to minimize the potential adverse impacts arising from the development of a Large Retail User (LRU), especially when developed near residential areas and schools. The amendment will accomplish this by proposing regulations requiring expanded Council and public review, location criteria, and site and design standards for LRUs.

The amendment will permit the development of a 100,000 square-foot or greater LRU in the C-2 zoning district or PADs designated for C-2 type development with the approval of a Special Use Permit. LRUs will not be permitted in the C-O, C-1, or CBD zoning districts. Site Plans for LRUs will require Planning and Zoning Commission review and City Council approval.

The location criteria as set forth in the amendment will require a LRU to locate at major intersections to facilitate traffic movement and efficient access.

Building setbacks proposed for LRUs will require a setback of at least 100 feet from residential areas and occupied school buildings. Attached as Exhibit B are two examples of how this setback requirement would function in a residential setting. In instances where the LRU is located directly adjacent to a residential area, a 40-foot landscape buffer containing 24-inch box trees will be located along the property line.

The site and design standards are intended to minimize the impacts of the LRU and ensure that the development exhibits the high standard of quality typical for the City of Goodyear.

Analysis – With the requirement for a Special Use Permit, the City will have expanded review authority and the ability to impose conditions on the design, use, and operation of the LRU. Additionally, since Special Use Permits require a neighborhood meeting and public hearings before the Planning and Zoning Commission and City Council, the public will have several opportunities to provide input, voice their concerns, and offer possible alternatives.

The proposed setback requirements are intended to promote a minimum separation between residential uses and schools and the LRU. Compatibility can be judged on a case by case basis during the review of the Special Use Permit. The Commission and Council have the ability to stipulate a greater setback if deemed warranted.

The ordinance will not be applicable to existing LRUs, such as the Palm Valley Lowe's or Target, or to properties with vested zoning, such as the Goodyear Planned Regional Center. However, the ordinance would be applicable in cases where a 'grandfathered' LRU plans an expansion exceeding 10% of the existing gross floor area. An approved Special Use Permit for the expansion would be required in that instance.


The participation of Valley Partnership and their attorney Ed Bull was significant in the formation of the amendment. Several meetings were held to discuss the intent and potential impacts of the amendment. This collaboration resulted in an ordinance that will help minimize adverse impacts on the City while also not stifling desired retail development.

Planning and Zoning Commission Action – The amendment was initially scheduled for the Planning and Zoning Commission at their regular meeting of February 18, 2004. The item was continued to March 17, 2004, and then April 21, 2004, so that staff and Valley Partnership representatives could discuss outstanding issues related to the amendment. On May 19, 2004, the Commission unanimously voted to forward a recommendation of approval to the City Council with the provision that the building setback between the Large Retail User and any residential lot be no less than 100 feet (Exhibit C). The attached ordinance reflects this change.

FISCAL IMPACT:

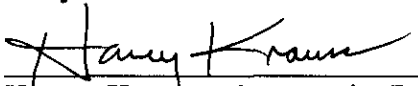
No immediate fiscal impact is anticipated. However, potential sales tax revenue could be lost with the denial of a Special Use Permit for a Large Retail User.

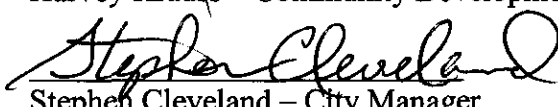
REVIEWED BY:


Grant Anderson – Deputy City Manager


Jim Oeser – City Attorney


Larry Price – Finance Director


Harvey Krauss – Community Development Director


Stephen Cleveland – City Manager

PREPARED BY:


Steve Careccia – Planner II

ORDINANCE NO. 04-905

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF GOODYEAR, ARIZONA, AMENDING ARTICLE 2, ARTICLE 3, AND ARTICLE 4 OF THE ZONING ORDINANCE OF THE CITY OF GOODYEAR, ARIZONA, ADOPTED MAY 24, 1999, AS AMENDED, BY ESTABLISHING THE DEFINITION, USE CRITERIA, AND DEVELOPMENT AND DESIGN STANDARDS FOR LARGE RETAIL USERS; PROVIDING SEPARABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the impacts of a large retail user with 100,000 square feet or more of floor area can, under certain circumstances, be materially detrimental to the health, safety and general welfare of persons residing within the vicinity of such use and can have an adverse effect on adjacent properties, the surrounding neighborhoods, and the City due to the location of the site, the character and size of the use, and its operational characteristics; and,

WHEREAS, the proposed site of a large retail user with 100,000 square feet or more of floor area can be inadequate in size and/or shape to accommodate the intended use and to satisfy the requirements for the relevant zoning district, including, but not limited to, building setbacks, screen walls, landscape buffers, loading areas, and open space; and,

WHEREAS, the proposed site of a large retail user with 100,000 square feet or more of floor area can have inadequate access to public streets and highways and/or the design capacity of adjacent public streets and highways can be inadequate to carry the type and quality of traffic which may be generated by such use of a site so as to compromise the safe and efficient use by the public of such streets and highways and such site; and,

WHEREAS, a public hearing was held by the City of Goodyear Planning and Zoning Commission on Case ZT-01-04 on May 19, 2004, in the manner prescribed by law, for the purpose of considering this amendment to the City of Goodyear Zoning Ordinance, adopted May 24, 1999, as amended; and,

WHEREAS, due and proper notice of such public hearing before the City of Goodyear Planning and Zoning Commission was given in the time, form, substance and manner provided by law, including publication of such notice in THE WEST VALLEY BUSINESS on February 25, 2004, and March 31, 2004; and,

WHEREAS, the City of Goodyear Planning and Zoning Commission has recommended to the Mayor and Council of the City of Goodyear, Arizona, that it approve the zoning text amendment as aforesaid and that the Mayor and Council of the City of Goodyear, Arizona, desire to accept such recommendation and amend Articles 2, 3, and 4 of the City of Goodyear Zoning Ordinance, adopted May 24, 1999, as amended; and,

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the City of Goodyear, Arizona, as follows:

SECTION I. The Table of Contents, Article 4-2 (Uses Requiring Additional Evaluation) of the Zoning Ordinance of the City of Goodyear, Arizona, adopted May 24, 1999, as amended, is hereby amended to add the following section:

4-2-5 Large Retail Users

SECTION II. Article 2-2 (Definitions) of the Zoning Ordinance of the City of Goodyear, Arizona, adopted May 24, 1999, as amended, is hereby amended to add the following new definition:

Large Retail User. A singular retail user, who occupies no less than one-hundred thousand (100,000) square feet of floor area, typically requires high parking to building ratios, and/or has a regional sales market. The floor area shall include any associated tenant spaces having common access within the confines of the primary use. It shall also include any outside area, which provides associated services to the public such as, but not limited to, outdoor merchandise display or snack bar. Excluded from floor area shall be underground parking spaces, parking structures, uncovered steps, exterior balconies, and mezzanines so long as these areas are not used for the sale or display of merchandise. This definition does not extend to industrial land uses.

SECTION III. Article 3 (Zoning Districts), Section 3-3-3.A (C-2 General Commercial District – Principal Permitted Uses) of the Zoning Ordinance of the City of Goodyear, Arizona, adopted May 24, 1999, as amended, is hereby amended to add the following new principal permitted use:

23. **Large Retail User**, subject to the provisions of Article 4-2-5.

SECTION IV. Article 3 (Zoning Districts), Section 3-3-4.A (Central Business (CBD) District – Principal Permitted Uses) of the Zoning Ordinance of the City of Goodyear, Arizona, adopted May 24, 1999, as amended, is hereby amended to read as follows:

11. Retail stores with sales only, excluding: drive-through facilities, **Large Retail Users**, and convenience uses as defined in Article 4.

SECTION V. Article 4 (Special Uses, Uses Requiring Additional Evaluation, Nonconforming Uses and Buildings), Section 4-1-3.A.1 (Special Uses Considered in Specified Districts – Considered Uses) of the Zoning Ordinance of the City of Goodyear, Arizona, adopted May 24, 1999, as amended, is amended to add the following new considered use:

- d. **Large Retail Users (C-2 only)**, subject to the requirements of subsection 4-2-5.

SECTION VI. Article 4-2 (Uses Requiring Additional Evaluation) of the Zoning Ordinance of the City of Goodyear, Arizona, adopted May 24 1999, as amended, is hereby amended to add the following new use:

4-2-5 Large Retail Users

Section VII. Article 4-2 (Uses Requiring Additional Evaluation) of the Zoning Ordinance of the City of Goodyear, Arizona, adopted May 24, 1999, as amended, is amended to add the following new section:

Section 4-2-5 Large Retail Users

Large Retail Users, as defined in Article 2-2 of this Ordinance, are subject to the following conditions.

- A. Applicability. All **Large Retail Users** shall require a Special Use Permit and Site Plan approval. The Special Use Permit and Site Plan may be processed concurrently if deemed appropriate by the Community Development Director. If a unified development of several **Large Retail Users** is proposed, then one Special Use Permit application encompassing the entire development may be submitted. Each individual **Large Retail User** will then only require Site Plan approval provided they are in conformance with the approved Special Use Permit. All Site Plans for **Large Retail Users** will require Planning and Zoning Commission review and City Council approval. Property with vested zoning prior to the effective date of this Ordinance will not be subject to Section 4-2-5.
- B. Area Requirement. The minimum area for a commercial center containing more than one **Large Retail User** shall be ten (10) acres.
- C. Location Criteria. All **Large Retail Users** shall meet one of the following four criteria:
 - 1. Be located within a development that is at the intersections of two scenic and/or major arterials as designated in the City of Goodyear General Plan and/or the Engineering Procedures Manual, or
 - 2. Be located within a development that is at the intersection of an existing or proposed freeway and scenic or major arterial as designated in the City of Goodyear General Plan and/or the Engineering Procedures Manual, or
 - 3. Be located within a development that is at the intersection of two existing or proposed freeways as designated in the City of Goodyear General Plan, or
 - 4. Be located no more than one (1) mile from an existing or proposed freeway interchange.
- D. Building Setback. The following building setbacks are required for **Large Retail Users**. The Planning and Zoning Commission and City Council may increase the building setback due to the operational characteristics of the **Large Retail User** such as, but not limited to, hours of operation and the location of mechanical equipment and loading areas.

1. A minimum building setback of 100 feet is required from proposed and/or existing residential uses. This setback shall be measured from the property line of the nearest residential lot or occupied parcel to the nearest exterior wall of the **Large Retail User**. Intervening streets or other man-made or natural land use features may be included within the setback.
2. A minimum building setback of 100 feet is required from proposed and/or existing public or private elementary, middle, junior high, or high schools. This setback shall be measured from the nearest occupied building on the school parcel to the nearest exterior wall of the **Large Retail User**. Intervening streets or other man-made or natural land use features may be included within the setback.
3. When a **Large Retail User** is developed directly adjacent to a lot or parcel developed as or proposed for residential use, a landscape buffer with a minimum width of 40 feet shall be included within the building setback. Said buffer shall be located along the property line and improved with one 24-inch box tree per 10 feet of length. Trees shall be staggered to achieve maximum buffering of the two uses.

E. General Requirements.

1. The submittal of a traffic study for review and approval by the City Engineer.
2. A Special Use Permit shall be required for any expansion of a **Large Retail User** exceeding 10% of the square footage of the floor area existing at the time of the adoption of this ordinance. Only those portions of the building or site being expanded will be subject to the requirements of Section 4-2-5.
3. All properties developed with a **Large Retail User**, whether they are occupied or not, shall be regularly maintained by the property owner so that they are not allowed to fall into a state of disrepair or neglect; and they shall consistently present a neat and orderly appearance to the general public as well as adjacent tenants and property owners. Roofing materials shall be replaced and/or maintained in a manner to insure weather tight conditions. Building walls shall be repaired and/or maintained in a safe condition and clean from graffiti. The landscaping shall be kept in a weed free condition, the irrigation system maintained, and the plants watered to prevent the loss of vegetation. Outdoor lighting shall be kept in an operational state and utilized at night.

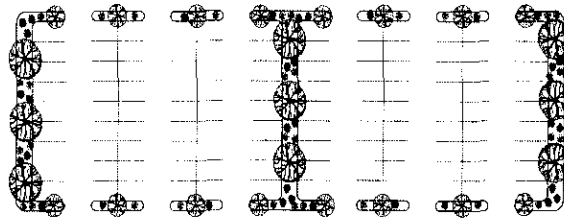
The property owner is responsible to maintain fire protection systems in working order and provide hazardous materials closure mitigation and documentation for the site in compliance with the Fire Code.

If a **Large Retail User** building is unoccupied or vacated for more than six (6) months, the property owner shall remove all signs from the building and sign panels from any freestanding monuments and replace with a color matched blank panel, the mounting holes patched, and the wall area behind the signs repainted.

F. Site Design Standards.

1. **Large Retail Users** shall comply with the guidelines contained in Chapter IV – General Commercial of the City of Goodyear Design Guidelines in addition to those contained herein.
2. The **Large Retail User** shall provide at least one percent (1%) of the net site area of the parcel in which it is located as pedestrian oriented open space. This open space can include plazas, courtyards, patios, and outdoor seating areas. Sidewalks shall connect open space areas and contain pedestrian scale lighting, signage, and landscaping.
3. Parking lots for a stand alone **Large Retail User** shall not occur entirely in front of the building. A minimum of 15% of the overall parking for the **Large Retail User** shall be located to the side and/or rear of the building. This requirement can be reduced by 2.5% for each of the following design features that are incorporated into the project. However, said 15% requirement may not be reduced below 5%.
 - a. The provision of 1.25% of additional total landscape area above the minimum required for the site. Multiple increments of additional landscaping may be counted towards reducing the 15% requirement. The use of this additional landscaped area for stormwater retention purposes is prohibited.
 - b. The provision of an additional 1% of the net site area as pedestrian oriented open space above the minimum required for the site.
 - c. The provision of public art as an integral and significant feature of the site. Public art shall be dispersed throughout the site and deployed in concert with the projects pedestrian amenities and plazas.
 - d. The creation of an enhanced entry to the property that is comprised of a landscaped boulevard with a landscaped median, decorative pavement, and architecturally enhanced signage, lighting and pedestrian paths. Parking spaces located along and directly accessible by the boulevard are prohibited. The minimum length of the boulevard shall be 150 feet measured from the property line to the first drive aisle.
 - e. The creation of an overall theme for the site that is incorporated into the building architecture, landscaping, light fixtures, signage, and open space areas.
4. Parking lots for a **Large Retail User** shall be designed as a series of connected smaller lots (50-75 parking spaces) utilizing raised landscaped

strips at least 10 feet in width with sidewalks and islands at least five feet in width to create a safe and landscaped pedestrian circulation system.



5. The major entry aisle serving the **Large Retail User** should be aligned with the main entry of the building or aligned with a major focal point such as a plaza, monument, or fountain.
6. Pedestrian walkways serving the **Large Retail User** shall be differentiated from driving surfaces through a change of materials, such as decorative concrete, scored concrete, stone, brick, granite pavers, or exposed aggregate, and/or by a change of grade.
7. The front and any side exposed to public view of the **Large Retail User** building are to be improved with landscaping and enhanced pedestrian pathways.
8. Parking and security lights for the **Large Retail User** shall not exceed a mounting height of 30 feet measured from the finished grade to the lens. Light trespass shall not exceed .8 vertical foot candles at the property line adjacent to any parcel developed as or proposed for residential use. All light poles and fixtures are to be reviewed during the site plan review process. Lighting shall comply with all other prevailing City Code provisions relating to outdoor lighting.
9. Overnight parking of semi-trucks, trailers, or recreational vehicles (RVs) is prohibited.

G. Architectural Design Standards.

1. **Large Retail Users** shall comply with the guidelines contained in Chapter IV – General Commercial of the City of Goodyear Design Guidelines in addition to those contained herein.
2. If the **Large Retail User** is located within a master planned commercial center containing multiple buildings, then all buildings within the center shall be architecturally unified. This provision shall apply to new construction, additions, and remodeling. Architectural unity means that buildings shall be related in architectural style, color scheme, and building materials.
3. The **Large Retail User** building shall contain an identifiable base, extending two or more feet up from the finished grade. This base will

incorporate texture variations, a projection or break in the wall color or material, or some other form of architectural enhancement. The base material shall be highly resistant to damage, defacing, and general wear and tear. Pre-cast decorative concrete, stone masonry, brick, and commercial grade ceramic tile are examples of acceptable base materials.

4. Flat, monolithic facades are not permitted. A building facade shall employ both vertical and horizontal articulation. To ensure a minimal amount of horizontal articulation and undulation, no building wall of the **Large Retail User** should run more than approximately 50 feet without employing one or more of the following:
 - a. A minimum twelve inch offset in wall plane.
 - b. A column or pier at least twelve inches wide and eight inches deep.
 - c. A building corner or projection.
 - d. Some other form of significant architectural enhancement.
5. Building wall articulation is required for **Large Retail Users**. Exterior wall treatments can be used to successfully mitigate the appearance of the typical **Large Retail User** building. These treatments shall include one (1) or more of the following: arcades, porticos, insets, colonnades, lower shed roof structures, and wing walls.
6. Distinct and interesting rooflines shall be required. On flat roofed structures, a parapet wall with a substantial cornice or other design feature should be used to provide a distinctive cap to the building facade.
7. **Large Retail Users** that have outdoor storage areas shall incorporate the outdoor storage area into the architecture of the primary building. Screening materials and colors shall be consistent with the overall theme of the building.

SECTION VIII. Separability. If any provision of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

SECTION IX. Effective Date. This Ordinance shall become effective as provided by law.

PASSED AND ADOPTED by the Mayor and Council of the City of Goodyear, Arizona, this 14TH day of June, 2004.

James M. Cavanaugh, Mayor

ATTEST:

Dee Cockrum, City Clerk

APPROVED AS TO FORM:

James H. Oeser, City Attorney

CERTIFICATION OF RECORDING OFFICER

STATE OF ARIZONA)
) ss.
County of Maricopa)

I, the undersigned Dee Cockrum, being the duly appointed, qualified City Clerk of the City of Goodyear, Arizona, certify that the foregoing Ordinance 2004-905, passed and adopted at a City Council Meeting of the Council of the City of Goodyear, Maricopa County, Arizona held on the ____ day of _____, 2004, at which a quorum was present and, by a _____ vote, voted in favor of said ordinance.

Given under my hand and seal, this ____ day of _____, 2004.

City



VALLEY PARTNERSHIP

Advocating Responsible Development

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About Us

2003 Executive Summary

Valley Partnership advocates responsible development for the commercial, industrial and master planned real estate development industry on public policy issues. Valley Partnership members include developers and real estate professional including architects, engineers, attorneys, other professionals and government bodies that affect commercial development related issues. Valley Partnership has more than 500 member companies that represent the best that the real estate development industry has to offer, and the organization continues to grow.

Purpose

Valley Partnership's mission addresses four important areas:

Advocacy

Advising, influencing and monitoring state, county and local governments on issues affecting the real estate development industry.

Education

Educating members regarding current regulations, new ordinances, laws and other actions that impact real estate development.

Community Projects

Utilizing the skills, efforts and supplies provided by our members to renovate and enhance facilities for children and the less advantages. To date, Valley Partnership has completed fifteen community projects and donated over \$1,150,000 in time, materials and labor to the community.

Networking

Providing the opportunity to meet, communicate and work with decision makers of prominent companies in the development and commercial real estate industry. These opportunities include special events, community projects and regular monthly Friday Morning Breakfast meetings.

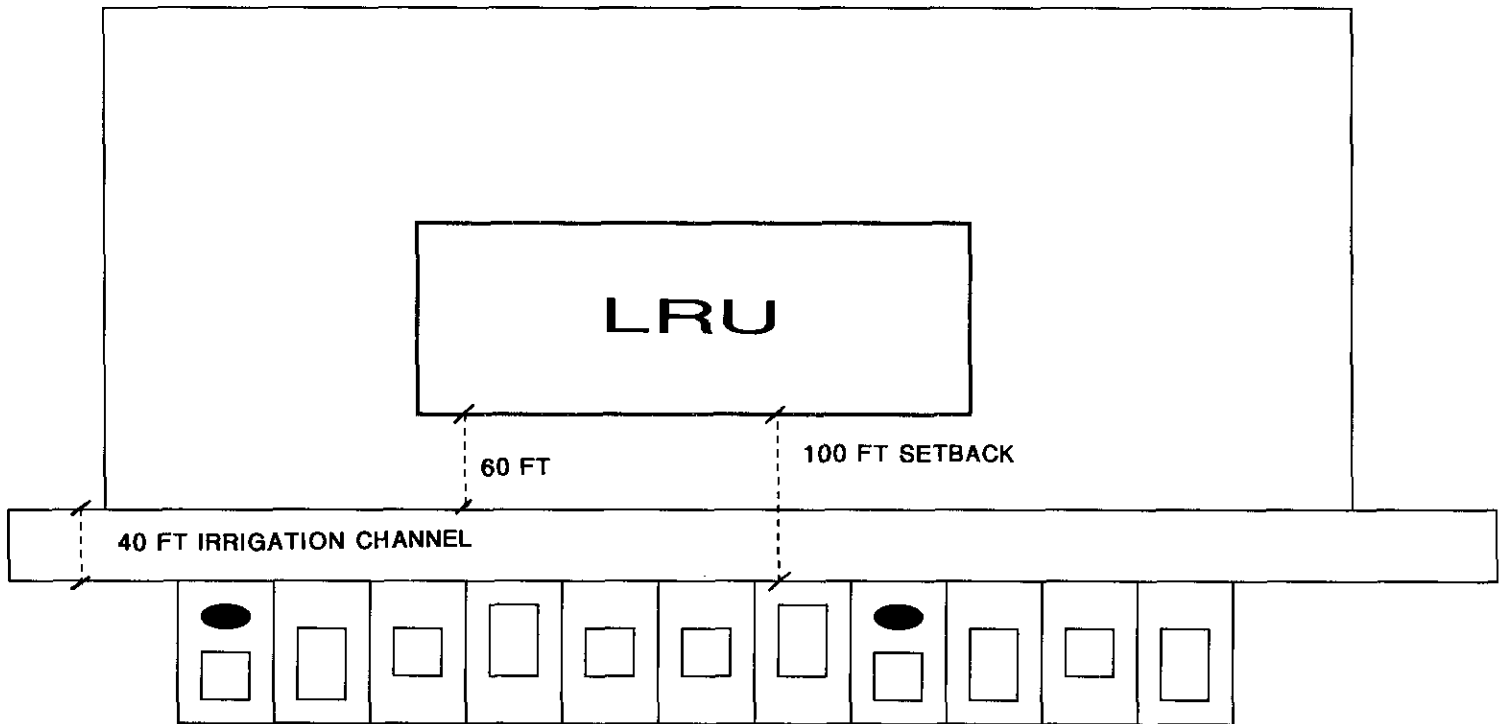
Valley Partnership
3003 N. Central Avenue
Suite 310
Phoenix, AZ 85012
602-266-7844 - phone
602-266-7845 - fax
info@valleypartnership.org

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EXHIBIT B

Irrigation Channel Located between LRU and Residential



LRU Property Directly Adjacent to Residential

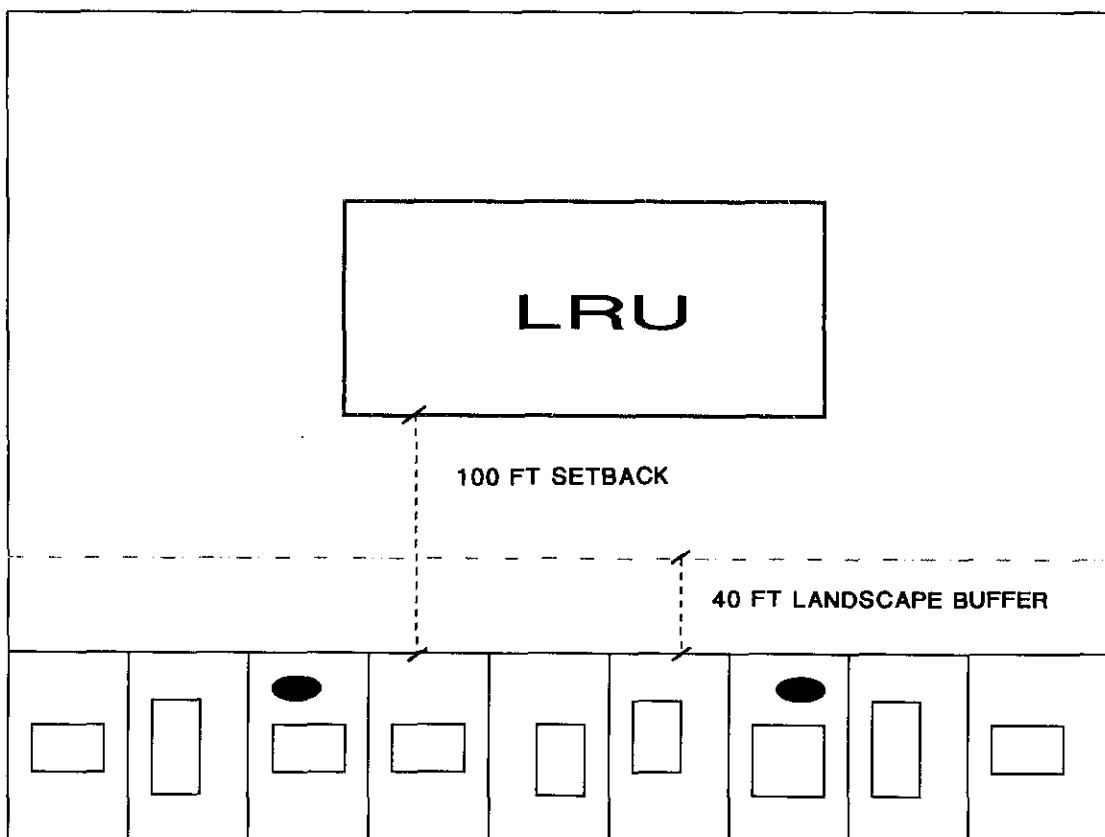


EXHIBIT C

MEETING MINUTES

MAY 19, 2004, PLANNING AND ZONING COMMISSION

TO BE ATTACHED

Planning and Zoning Commission Meeting
May 19, 2004
Draft Minutes

- A. Case ZT-01-04, Zoning Ordinance Text Amendment** - Request approval of an ordinance to amend the text of Article 2-2, Definitions, Article 3-3, Commercial Districts, Article 4-1, Special Uses, and Article 4-2, Uses Requiring Additional Evaluation, of the City of Goodyear Zoning Ordinance adopted May 24, 1999, as amended from time to time, to establish definitions, use criteria, and development standards for Large Retail Users.

Applicant: City of Goodyear

1. Open Public Hearing
2. Staff Presentation
3. Public Comments
4. Close Public Hearing
5. Commission Action

Recommendation: Staff recommends approval of an ordinance to amend the text of Article 2-2, Definitions, Article 3-3, Commercial Districts, Article 4-1, Special Uses, and Article 4-2, Uses Requiring Additional Evaluation, of the City of Goodyear Zoning Ordinance adopted May 24, 1999, as amended from time to time, to establish definitions, use criteria, and development standards for Large Retail Users.

Mr. Careccia summarized the staff report by providing an overview of what has changed since it was last presented to the Commission. He presented a slide showing comparisons with other Valley cities on the requirements for large retail users.

Mr. Laux asked about the process for approving public art as a way to reduce the parking requirement. Mr. Careccia responded that it would have to be presented in the early stages of the Site Plan/Special Use Permit Review process and would be reviewed by the Commission and Council.

Mr. Gelzer asked if a water feature would be considered public art. Mr. Careccia said that art could include plazas, pedestrian open space, and that a water feature could be incorporated. **Mr. Gelzer** asked the reasoning behind "gross floor area" being removed from the definitions. Mr. Careccia answered that it was originally put in as a point of reference. There is no change to the definition of "gross floor area". The definition for "large retail user" spoke to what we needed to say. It addresses retail area, not just the footprint of the building.

Ms. Osborne was uncomfortable with the proposed setbacks and the language regarding "intervening street and natural or man-made buffer". She felt it should be stated in black

and white terms for the developers. Mr. Careccia said that if there is a 50-foot local roadway, they would not have to comply with this section, but would have to comply with the C-2 zoning standards for setbacks (30 feet for a one-story building). **Ms. Osborne** said she would like to see it stated that the developer would be subject to a 100-foot setback. **Ms. Osborne** was also concerned that there was not specific language regarding sidewalks and would like to see more protected pedestrian walkways. Mr. Careccia said that the intent is for pedestrian safety and sufficient walking paths.

Mr. Bey asked how Mr. Careccia felt the negotiations with Valley Partnership went and if they are comfortable with the outcome. Mr. Careccia responded that both staff and Valley Partnership are comfortable with this ordinance. He said it is a balanced ordinance that will protect the City but not stifle development.

Chairman Horsman asked if there was a definition for "man-made land use feature". Mr. Careccia said that there probably was not one, adding that it was understood by staff and Valley Partnership but that it may need more clarification. **Chairman Horsman** said he would like to see this defined. He proposed that in both paragraphs D.1 and D.2 eliminating the language "with no intervening street or other significant natural or man-made land use feature" and adding a minimum building setback of 150 feet with a 40-foot landscaped buffer to residential and schools. He said his goal is protection of neighborhoods.

Mr. Gelzer asked if Chairman Horsman wanted to see 150 foot setbacks no matter what is in between the residential neighborhood and the big box. If there is a canal along the residential neighborhood, would it be within the 150 feet. **Chairman Horsman** said that would be the ideal. **Mr. Bey** said that he felt that 100 feet is a significant buffer with the language addressing a land use feature eliminated, considering the time that has already gone into the negotiations in defining the buffer.

Maria Baer, Executive Director of Valley Partnership, said they had met with staff several times and traded countless emails on this ordinance. There has been a very cooperative dialog on this ordinance. Valley Partnership has been working with communities to create quality development for 20 years, advocating for responsible development. They have 600 business members. She said she is appreciative of staff and the Commission's efforts.

Ed Bull, 7702 E. Osborne, Phoenix, spoke on behalf of Valley Partnership. He said they appreciate the hard work of staff in working with them. Mr. Bull said that Valley Partnership supports staff's recommendation on this text amendment. He said the proposed amendment makes it clear that 100 feet is the minimum setback and can be increased in certain circumstances. They agree with the parking lot standards and that the Site Plan and Special Use Permit require approval by Commission and Council. Compatibility is the main concern. He said this is a very good set of rules for someone to work with, and that they are aware that there is no guarantee for the 100-foot setback. They agree with the 40-foot landscaped buffer and 24-inch box trees, 10-feet on center. Provision of improved open space is understood. He asked that they be allowed the

opportunity to work together on the clarification of setbacks. Increasing those setbacks could cause challenges in efficiencies of development. He didn't want to see us unintentionally tie staffs hands to work with developers in creativity to enhance the site. He said that neither staff nor Valley Partnership feels they have wasted their time and that this is a viable, practical, compatible ordinance that works.

Chairman Horsman said he appreciated Mr. Bull's comments but they raised some other issues. Even though we really want to move this along, there are a couple of things that need to be clarified. **Chairman Horsman** said he would like a definition of what a "man-made land use feature" would encompass and clarification of where a building setback is measured from.

Mr. Krauss asked if it was the intent of the Commission to go back to the drawing board. **Chairman Horsman** answered, just on these two sub-paragraphs. It's not as clear as it might be. Mr. Bull said they don't want to delay approval of the ordinance, but if the amendment needs to be continued to work with staff, they are willing to do that.

Mr. Gelzer asked if the Commission wanted to see this again in black and white. Mr. Krauss said that the language addressing a man made feature gives staff some flexibility and that this is a minimum standard. He said that 100 feet was selected because every situation is different and this is a minimum standard. We want to have flexibility. We don't want to make the ordinance so restrictive that it will scare off developers, but we do want to protect the neighborhoods. We are trying to balance this. Mr. Krauss added that he was afraid if we try to define man-made feature we will miss something and narrow things for the future. He said we would rather not delay it, and that every day we delay the City is vulnerable. The quicker we get a Use Permit requirement in place the better.

Mr. Gelzer said that if there was language stating there is a minimum of 100 feet from the residential or school property line to the vertical wall of the Large Retail User, Council and Commission would feel more comfortable. Mr. Bull said that if that is where the Commission wants to go, they would be satisfied with that. He said another approach would be to agree that when an intervening street or significant man-made land use feature is provided there would never be less than 100 feet from a single family residential lot to the Large Retail User.

Diane Burnett, 6577 Weston Road, said that a definite setback minimum has to be set. Residents have to be taken into consideration and have to be happy with their community.

Mike Hathorne, 3907 N. 143rd Lane, asked for clarification of the definition of a Large Retail User. **Chairman Horsman** read the definition, "... a singular retail user occupying no less than 100,000 square feet of floor area, and requiring a large amount of parking to building ratio, with a regional sales market...". Mr. Hathorne said that when this was discussed in March, it was suggested not to limit this ordinance to only large retail users. This ordinance would not apply to anything smaller than 100,000 square feet. **Chairman Horsman** said the existing zoning would govern smaller users. Mr. Hathorne

asked what standard a 39,000 square foot neighborhood market would be held to. Mr. Krauss responded that the underlying zoning would dictate the requirements on these properties. Mr. Hathorne asked why we are not including more than the Large Retail User as discussed in March. Mr. Krauss said the ordinance addresses the larger facilities that have more impact on neighborhoods. Neighborhood centers are more compatible with communities. If there are specific issues, they will be addressed separately through standards applied City-wide. Mr. Hathorne said that setbacks for these smaller businesses is a concern to him and felt this ordinance should address this.

Chairman Horsman asked if there were further questions or comments. Hearing none, he closed the public hearing.

Mr. Gelzer moved to approve Case ZT-01-04 with the changes noted through discussions with Mr. Krauss and Mr. Bull. **Mr. Laux** seconded the motion. The motion carried by a vote of 5 to 0.